

## SENATE BILL No. 453

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-8.1-2-1; IC 4-8.3; IC 4-13-2-14.8; IC 6-7-0.5; IC 36-1-8-1.

**Synopsis:** Use of gold by the state and local government. Requires the treasurer of state to designate one or more electronic gold currency payment providers to be a payment provider for the state and political subdivisions. Requires the treasurer of state and fiscal officers of political subdivisions to: (1) maintain one or more electronic gold currency accounts with a designated electronic gold currency payment provider; and (2) conduct all monetary transactions of the state or political subdivisions through electronic gold currency accounts. Provides that an electronic gold currency payment provider must use an electronic gold currency unit that constitutes a monetary unit of account and represents a claim of title to and ownership of a specifically defined, fixed weight of gold held by an independent specie vault. Specifies that a specie exchange with which an electronic gold currency payment provider associates must conduct the business of exchanging gold and silver coin, legal tender of the United States, and the electronic gold currency of the electronic gold currency payment provider. Provides that after December 31, 2009, the state and political subdivisions may not compel or require any person to recognize, receive, pay out, deliver, promise to pay, or otherwise use or employ anything but gold and silver coin (in that form or in the form of a designated electronic gold currency) as media of exchange with respect to certain payments. Provides that after December 31, 2009, a person receiving certain payments from the state or a political subdivision has the option of accepting payment in either legal tender of the United States or in electronic gold currency. Allows a person engaging in covered transactions to elect to receive or to pay a

(Continued next page)

**Effective:** July 1, 2009.

**Walker**

January 14, 2009, read first time and referred to Committee on Tax and Fiscal Policy.



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designated electronic gold currency instead of legal tender of the United States. Provides that if a person does not make a timely election, the medium of exchange for the transaction is legal tender of the United States. Specifies that if there is not sufficient gold in the state's or a political subdivision's accounts with electronic gold currency payment providers for the state or the political subdivision to make any payment in gold, the payment shall be made in legal tender of the United States.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## SENATE BILL No. 453

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-8.1-2-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** The treasurer of  
3 state is responsible for the safekeeping and investment of moneys and  
4 securities paid into the state treasury.  
5 **(b) After December 31, 2009, payments from the state treasury**  
6 **are subject to the requirements of IC 4-8.3.**  
7 SECTION 2. IC 4-8.3 IS ADDED TO THE INDIANA CODE AS A  
8 **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
9 2009]:  
10 **ARTICLE 8.3. GOLD AND SILVER COIN AND**  
11 **ELECTRONIC CURRENCY**  
12 **Chapter 1. Application**  
13 **Sec. 1. This article does not apply to any gold and silver coin, or**  
14 **to any legal tender of the United States, that has a recognized**  
15 **numismatic or collectors' character and value above its face or**



nominal value.

## Chapter 2. Definitions

Sec. 1. (a) The definitions in this chapter apply throughout this article.

(b) For purposes of this article, the term "digital" may be substituted for any use in this article of the term "electronic".

Sec. 2. "Check" means a check, draft, bill of exchange, wire transfer, or any similar instruments.

Sec. 3. "Electronic gold currency" means a specifically defined amount of gold, measured in an electronic gold currency unit, that an electronic gold currency payment provider makes available to its customers as a medium of exchange.

Sec. 4. "Electronic gold currency account" means an account that:

- (1) is with an electronic gold currency payment provider; and
- (2) in which the electronic gold currency payment provider receives and maintains, and from which the electronic gold currency payment provider transfers, electronic gold currency units on behalf of a customer.

Sec. 5. "Electronic gold currency unit" means a unit of monetary account that represents a customer's claim of title and ownership to a specifically defined fixed weight of gold or silver, or both gold and silver, that may be transferred among customers' accounts maintained by an electronic gold currency payment provider.

Sec. 6. "Financial institution" means any bank, trust company, credit union, depository institution, savings institution, or any other similar business or institution.

Sec. 7. "Fiscal officer" has the meaning set forth in IC 36-1-2-7.

Sec. 8. "Gold and silver coin" means any combination of the following:

- (1) The following gold coins:
  - (A) United States "American Eagle" coins, of all denominations, minted under the Act of December 17, 1985, Public Law 99185, 99 Statutes at Large 1177.
  - (B) Austrian 100 and 20 corona, and 4 and 1 ducat.
  - (C) British sovereign.
  - (D) Canadian 1 and 1/10 maple leaf.
  - (E) French 20 franc.
  - (F) Mexican 50, 20, 10, 5, and 2.5 peso.
  - (G) South African 1, 1/2, 1/4, and 1/10 krugerrand.
  - (H) Swiss 20 franc.

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(2) The following silver coins:

(A) United States dollars, so denominated and whenever minted, that were or are required by the statutes authorizing their coinage to contain 371.25 grains (Troy) of fine silver per dollar.

(B) United States half dollars, quarter dollars, and dimes, so denominated, whenever minted, that were or are required by the statutes authorizing their coinage to contain fine silver in amounts proportionate to the constitutional silver dollar of 371.25 grains (Troy) of fine silver per dollar.

(C) United States "American Eagle" or "Liberty" coins minted under the Act of July 9, 1985, Public Law 9961, Title II, 99 Statutes at Large 113, 115.

(D) Canadian maple leaf.

Sec. 9. "Independent specie vault" means a corporation, partnership, limited liability company, limited liability partnership, trust company, or other legal entity that:

(1) is not affiliated with an electronic gold currency payment provider by common ownership, control, or operation; and

(2) under a contractual arrangement performs for an electronic gold currency payment provider the functions described in IC 4-8.3-4-2.

Sec. 10. (a) "Legal tender of the United States" means the following:

(1) All coins of the United States, whenever minted, that were or are required by the statutes authorizing their issuance to be composed of fine silver or fine gold to the extent of less than eighty-five percent (85%), by weight.

(2) All coins of the United States, whenever minted, that were or are required by the statutes authorizing their issuance to be composed solely of base metals.

(3) All paper currencies, whenever issued, that:

(A) are emitted by the United States, or by any individual, person, corporation, or other legally recognized entity acting under color of the laws of the United States; and

(B) are not guaranteed by law to be redeemable and in fact are not being redeemed on a dollar for dollar basis in gold and silver coin of the United States that were or are required by the statutes authorizing their issuance to be composed of fine silver or fine gold to the extent of eighty-five percent (85%) or more, by weight.

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(b) For purposes of this article, the term does not include any gold and silver coin, regardless of whether the gold and silver coin were designated or are designated as legal tender under the laws of the United States.

Sec. 11. "Person" means an individual, a corporation, a limited liability company, a partnership, a limited liability partnership, a trust, a joint venture, a trust company, a fiduciary, a labor union, or any other legal entity.

Sec. 12. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 13. "Specie exchange" means any person that conducts the business of exchanging, in any combination:

- (1) gold and silver coin;
- (2) legal tender of the United States; and
- (3) the electronic gold currency of an electronic gold currency payment provider;

for persons within Indiana, regardless of where the person functioning as a specie exchange is legally organized or domiciled or maintains the person's principal place of business.

Sec. 14. "State" means the state of Indiana and includes any officer, agency, branch, department, board, bureau, commission, division, or institution of the state and any corporation of the state or body politic of the state.

### Chapter 3. Duties of the Treasurer of State and Other Fiscal Officers Under This Article

Sec. 1. In addition to other powers and duties granted and imposed by law, the treasurer of state shall do the following:

- (1) Designate one (1) or more electronic gold currency payment providers to be an electronic gold currency payment provider for the state and political subdivisions.
- (2) Maintain one (1) or more electronic gold currency accounts with one (1) or more designated electronic gold currency payment providers.
- (3) Conduct all monetary transactions of the state involving gold and silver in any form:
  - (A) through the agency of designated electronic gold currency payment providers; and
  - (B) through electronic gold currency accounts.
- (4) Require all persons who deal with the state in monetary transactions involving gold and silver in any form to maintain at least one (1) account with a designated electronic gold currency payment provider.

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(5) Adopt any rules and guidelines that are necessary and proper to implement this article.

(6) Prepare and distribute all necessary and appropriate forms, instructions, and other informational materials to:

(A) educate persons concerning their rights, duties, and options under this article; and

(B) enable persons to pay to and receive from the state gold and silver in any form, as required or allowed under this article.

(7) Report at least quarterly to the general assembly (in an electronic format under IC 5-14-6) and to the governor concerning receipts, deposits, disbursements, and other relevant information related to monetary transactions involving gold and silver in any form.

(8) Make recommendations to the general assembly concerning administration of this article.

(9) Advise any fiscal officer who requests information or assistance related to the fiscal officer's implementation of this article.

**Sec. 2.** In addition to any other powers and duties granted and imposed by law, the fiscal officer of each political subdivision shall do the following:

(1) Maintain one (1) or more electronic gold currency accounts with one (1) or more electronic gold currency payment providers who are designated under section 1 of this chapter.

(2) Conduct all monetary transactions of the fiscal officer's political subdivision involving gold and silver in any form:

(A) through the agency of designated electronic gold currency payment providers; and

(B) through electronic gold currency accounts.

(3) Require all persons who deal with the fiscal officer's political subdivision in monetary transactions involving gold and silver in any form to maintain at least one (1) account with a designated electronic gold currency payment provider.

(4) Prepare and distribute all necessary and appropriate forms, instructions, and other informational materials to:

(A) educate persons as to their rights, duties, and options under this article; and

(B) enable persons to pay to and receive from the fiscal officer's political subdivision gold and silver in any form, as required or allowed under this article.

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(5) Consult with the treasurer of state on the most effective and efficient manner of implementing this article within the fiscal officer's political subdivision.

**Chapter 4. Designated Electronic Gold Currency Payment Providers; Designated Independent Specie Vaults; Specie Exchanges**

**Sec. 1. (a) To qualify for designation by the treasurer of state under IC 4-8.3-3-1, an electronic gold currency payment provider must do all of the following:**

**(1) Use an electronic gold currency unit that:**

**(A) constitutes a monetary unit of account; and**

**(B) represents a claim of title to and ownership of a specifically defined, fixed weight of gold held in allocated storage for customers in and by an independent specie vault.**

**(2) Designate receipts and holdings of gold in, and transfer gold among, the accounts of customers of the electronic gold currency payment provider only in the electronic gold currency payment provider's electronic gold currency unit.**

**(3) Provide a separate account for each customer. Each account of a customer must:**

**(A) be accessible to the customer through the Internet; and**

**(B) allow electronic gold currency units to be added to the account or transferred to other customers' accounts, to specie exchanges, or to financial institutions that associate or maintain accounts with the electronic gold currency payment provider, as the customer may direct.**

**(4) Maintain a secure electronic data base that records and makes available for each customer's review each activity in the customer's account upon the completion of the activity and the number of electronic gold currency units credited to and available for the customer's use in the customer's account following the completion of the activity. The secure electronic data base must be managed by a person:**

**(A) that is not affiliated by common ownership, control, or operation with the electronic gold currency payment provider; and**

**(B) that under a contractual arrangement performs for the electronic gold currency payment provider the necessary data processing services.**

**The person managing the secure electronic data base must provide a report to the electronic gold currency payment**

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provider, delivered at least quarterly, specifying the number of electronic gold currency units in each customer's account and the total number of gold currency units in all customers' accounts.

(5) Act as agent on behalf of the electronic gold currency payment provider's customers to arrange and maintain safekeeping of the gold, represented by the electronic gold currency units recorded in the customers' accounts, in specifically allocated storage in and by an independent specie vault, on principles of bailment, so that the electronic gold currency payment provider's customers always retain title to and ownership of all gold that may be recorded and maintained in their accounts, subject only to claims that the electronic gold currency payment provider, the independent specie vault, or both, may bring against customers for fees owed but not paid.

(6) Have a mutual, explicit, and contractually enforceable policy and agreement with the independent specie vault with which the electronic gold currency payment provider associates. The policy and agreement must:

(A) reserve to the electronic gold currency payment provider a right, through the auditors, accountants, or other persons designated by the electronic gold currency payment provider, at any reasonable time, with or without prior notice, to inspect the independent specie vault to verify that the independent specie vault in fact maintains in its possession and subject to its control all of the gold represented by the electronic gold currency units recorded in all of the accounts of the electronic gold currency payment provider's customers; and

(B) require return by the independent specie vault, if the electronic gold currency payment provider for any reason ceases operations, of the full free market value of all the gold of the electronic gold currency payment provider's customers, in:

- (i) bars of good delivery gold of designated weights;
- (ii) legal tender of the United States if the weight of gold to be delivered does not reach the designated amount; or
- (iii) both bars under item (i) and legal tender under item (ii).

(7) Associate with, or provide the services of, a specie exchange, so that the electronic gold currency payment

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provider's customers may on demand convert:

- (A) gold and silver coin into electronic gold currency units;
- (B) electronic gold currency units into gold and silver coin;
- (C) gold and silver coin into legal tender of the United States;
- (D) legal tender of the United States into gold and silver coin;
- (E) legal tender of the United States into electronic gold currency units; and
- (F) electronic gold currency units into legal tender of the United States.

(8) Annually subject all of the electronic gold currency payment provider's policies, systems, and operations to an independent third party systems audit (or equivalent review approved by the treasurer of state) and provide a certified copy of the audit report to the treasurer of state.

(9) Certify to the treasurer of state that none of the electronic gold currency payment provider's directors, officers, partners, trustees, or chief executive or employees:

- (A) has been convicted of a felony or crime of moral turpitude;
- (B) has been found liable for a civil judgment for fraud or forgery; or
- (C) has filed for personal bankruptcy.

If an electronic gold currency payment provider has a director, an officer, a partner, a trustee, a chief executive, or employees described in clause (A), (B), or (C) or the electronic gold currency payment provider makes a materially false representation regarding any of the electronic gold currency payment provider's directors, officers, partners, trustees, chief executive, or employees, the electronic gold currency payment provider may not be designated or retain a designation as an electronic gold currency payment provider for the state and political subdivisions under IC 4-8.3-3-1.

(b) A financial institution may function as an electronic gold currency payment provider if the financial institution otherwise meets all the requirements of an electronic gold currency payment provider.

(c) A person may provide the services of both an electronic gold currency payment provider and a specie exchange if that person meets all of the requirements under this article for each operation.

Sec. 2. (a) In order to qualify to perform safekeeping services

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for an electronic gold currency payment provider designated by the treasurer of state under IC 4-8.3-3-1, an independent specie vault must do all of the following:

(1) Hold all gold for each customer of the electronic gold currency payment provider in specifically allocated storage in a vault or other secure facility.

(2) Be adequately insured (as determined by the treasurer of state).

(3) Not be affiliated through common ownership, control, or operation with any electronic gold currency payment provider for which the independent specie vault performs the function of safekeeping and storing gold for the electronic gold currency payment provider's customers.

(4) For the purpose of increasing or decreasing the amounts of physical gold held in and by the independent specie vault, under transfers made to or on behalf of customers of the electronic gold currency payment provider for which the independent specie vault performs the function of safekeeping and storing gold, associate with a specie exchange or other corporation, partnership, limited liability company, limited liability partnership, trust company, or other legal entity that:

(A) regularly deals in the physical transfer of gold among private businesses or governmental agencies;

(B) is itself suitably insured (as determined by the treasurer of state); and

(C) is not affiliated through common ownership, control, or operation with the independent specie vault or any electronic gold currency payment provider for which the independent specie vault performs the function of safekeeping and storing gold for the electronic gold currency payment provider's customers.

(5) Report at least quarterly to each electronic gold currency payment provider for which the independent specie vault performs the function of safekeeping and storing gold for the electronic gold currency payment provider's customers, certifying:

(A) the weights of gold and number of electronic gold currency units, held in and by the independent specie vault on behalf of each customer of each electronic gold currency payment provider; and

(B) that the total weight of gold held in and by the independent specie vault on behalf of all the customers of

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each electronic gold currency payment provider is at least equal to the total weight of gold represented by each electronic gold currency payment provider's electronic gold currency units in circulation as media of exchange in all the customers' accounts at the time the report is prepared.

(6) Have a mutual, explicit, and contractually enforceable policy and agreement with each electronic gold currency payment provider for which the independent specie vault performs the function of safekeeping and storing gold in bailment on behalf of the electronic gold currency payment provider's customers, for return of the full free market value of the customers' gold held in and by the independent specie vault:

- (A) in bars of good delivery gold of designated weights;
- (B) in legal tender of the United States if the weight of gold to be delivered does not reach the designated amount; or
- (C) in both bars under clause (A) and legal tender under clause (B);

if the customers' electronic gold currency payment providers for any reason cease operations.

(b) A financial institution may function as an independent specie vault if the financial institution otherwise meets all the requirements of an independent specie vault.

(c) A person may provide the services of both an independent specie vault and a specie exchange if that person meets all of the requirements under this article for each operation.

Sec. 3. (a) In order to enable an electronic gold currency payment provider to qualify for designation by the treasurer of state under IC 4-8.3-3-1, a specie exchange with which the electronic gold currency payment provider associates must conduct the business of exchanging, in any combination, and for fees mutually agreed upon by the specie exchange and its customers, gold and silver coin, legal tender of the United States, and the electronic gold currency of the electronic gold currency payment provider, so that any person who chooses to deal in gold and silver with the state or a political subdivision under this article may, at the person's option:

- (1) begin the process by bringing gold and silver coin to the specie exchange, for the purpose of obtaining the free market value of the gold and silver coin in an electronic gold currency;

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(2) terminate the process by bringing electronic gold currency to the specie exchange, for the purpose of obtaining the free market value of the electronic gold currency in gold and silver coin; or

(3) perform a transaction described in subdivision (1) or (2) in legal tender of the United States.

(b) A financial institution may function as a specie exchange if the financial institution otherwise meets all the requirements of a specie exchange.

#### **Chapter 5. Use of Gold and Silver Coin and Electronic Gold Currency**

**Sec. 1.** Except as otherwise provided in this article, and notwithstanding any other law, after December 31, 2009, the state and political subdivisions may not compel or require any person to recognize, receive, pay out, deliver, promise to pay, or otherwise use or employ anything but gold and silver coin (in that form or in the form of a designated electronic gold currency) as media of exchange with respect to any of the following:

(1) The calculation and payment of any tax or other involuntary contribution, charge, assessment, fee, fine, or other monetary penalty imposed by the state or a political subdivision.

(2) The principal and interest of any loan, regardless of how it is denominated or evidenced, made to the state or a political subdivision.

(3) The purchase or sale by the state or a political subdivision of:

(A) any lands, real estate, buildings, tangible personal property, or any other assets, property, or things of value; or

(B) any legal or equitable rights, easements, or other interests.

(4) Any monetary award or agreement in respect of the condemnation of property under the exercise of the power of eminent domain by the state, a political subdivision, or a person authorized by law to exercise the power of eminent domain.

(5) Any judgment, decree, or order of any court, administrative agency, or other entity of the state or a political subdivision unless that court, agency, or entity:

(A) finds, on the basis of clear and convincing evidence, that payment of gold and silver coin (in that form or in the

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form of electronic gold currency) does not constitute just compensation for the damages or harm suffered by the prevailing party; and

(B) mandates:

(i) specific performance of a contract or other agreement by other than the payment of money;

(ii) specific restitution of property other than money;

(iii) payment of some medium of exchange other than gold and silver coin, under a requirement for such payment in a contract or other agreement; or

(iv) other similar relief.

(6) Contracts, agreements, or other arrangements for the payment of wages, salaries, fees, or other monetary compensation to any person that has provided or will provide goods or services to, or otherwise be entitled to payment from, the state or a political subdivision, as officers, employees, agents, or contractors of the state or a political subdivision in any other capacity.

Sec. 2. With respect to any tax, loan, sale, purchase, award in eminent domain, judgment, or contract or other agreement that before January 1, 2010, was payable in or designated explicitly or implicitly a specific medium of payment other than gold and silver coin (in that form or in the form of electronic gold currency), the medium of exchange for the payment or other satisfaction of the tax, loan, sale, purchase, award in eminent domain, judgment, or contract or other agreement is the medium designated, required, specified, or reasonably contemplated at the time the tax was imposed, the loan or contract or other agreement was made or became payable, the sale or purchase occurred, or the award or judgment was entered.

Sec. 3. (a) After December 31, 2009, all payments to the state required under IC 6-7 (tobacco taxes) must be made in electronic gold currency units at the free market rate of exchange, as of the time of payment, between the electronic gold currency units and the amounts of legal tender of the United States.

(b) The following apply with respect to payments to the state or a political subdivision of any tax or involuntary contribution, charge, assessment, fee, fine, or other monetary penalty (other than payments under IC 6-7) after December 31, 2009:

(1) The monetary amount of the payment shall be calculated by the state, the political subdivision, or by the person liable, as the applicable law provides, in legal tender of the United

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1 States.

2 (2) The person liable for payment of the amount may deliver  
3 to the state or the political subdivision, and the state or the  
4 political subdivision shall receive in payment, either:

5 (A) legal tender of the United States; or

6 (B) electronic gold currency with, at the time of payment,  
7 a total value in legal tender equal to the amount.

8 Sec. 4. (a) The following apply with respect to all loans (whether  
9 denominated bonds, notes, or otherwise, and regardless of how the  
10 loans are evidenced) made to and on the credit of the state or a  
11 political subdivision after December 31, 2009:

12 (1) The state or political subdivision shall determine and  
13 certify the amount to be borrowed in both:

14 (A) legal tender of the United States; and

15 (B) the equivalent value in electronic gold currency.

16 (2) The lender has the option to deliver to the state or political  
17 subdivision the certified amount of either legal tender of the  
18 United States or electronic gold currency, and this delivery  
19 shall designate and fix the medium of payment of principal  
20 and interest.

21 (b) The designation of the medium of payment of principal and  
22 interest:

23 (1) is a pledge of the full faith and credit of the state or  
24 political subdivision;

25 (2) shall bind the state or political subdivision as a contract,  
26 the obligation of which is protected by Article I, Section 10,  
27 Clause 1 of the Constitution of the United States against any  
28 impairment; and

29 (3) shall require upon the loan's maturity the delivery of the  
30 full amount of payment of principal and interest of the loan in  
31 the medium designated to the lender.

32 (c) All loans made in legal tender of the United States shall be  
33 repaid in legal tender of the United States. All loans made in  
34 electronic gold currency shall be repaid in electronic gold  
35 currency.

36 (d) The requirements and procedures set forth in this section  
37 apply with respect to the refunding of bonds, as otherwise  
38 authorized by law.

39 (e) The requirements and procedures set forth in this section  
40 apply with respect to issuance of revenue bonds, as otherwise  
41 authorized by law, except that a revenue bond payable in electronic  
42 gold currency may not be issued unless:

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(1) the revenues derived from the facilities to be funded by the revenue bonds are to be paid in electronic gold currency; or  
 (2) the revenue bond refunds an outstanding bond and the revenue from the facility that was financed with the outstanding bond to be refunded is payable in electronic gold currency.

**Sec. 5.** The following apply with respect to the purchase or sale after December 31, 2009, by the state or a political subdivision of land, real estate, buildings, tangible personal property, or any other assets, property, things of value, legal or equitable rights, easements, or other interests:

(1) At the time of sale or purchase, the state or the political subdivision shall determine and certify the price of the thing to be sold, or shall agree to and certify the price of the thing to be purchased, in both legal tender of the United States and electronic gold currency.

(2) The purchaser of a thing to be sold by the state or the political subdivision may deliver to the state or the political subdivision, and the state or the political subdivision shall receive from the purchaser, in payment, either legal tender of the United States or electronic gold currency.

(3) The seller of the thing to be purchased by the state or the political subdivision may receive from the state or the political subdivision, and the state or the political subdivision shall deliver to the seller of the thing, in payment, either legal tender of the United States or electronic gold currency.

**Sec. 6.** The following apply with respect to any monetary award or agreement arising out of the condemnation of property after December 31, 2009, under the power of eminent domain by the state, a political subdivision, or any other person or entity authorized by law to exercise the power of eminent domain:

(1) The state, political subdivision, or other person or entity exercising the power of eminent domain shall determine and certify the amount of any award or agreement in both legal tender of the United States and in electronic gold currency.

(2) The person whose property has been or will be condemned under the power of eminent domain has the option of accepting payment for the property in either legal tender of the United States or in electronic gold currency.

**Sec. 7.** Except as otherwise provided in this article, with respect to any judgment, decree, or order that is issued after December 31, 2009, by any court, administrative agency, or other tribunal of the

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1 state or a political subdivision arising in a civil action or  
 2 proceeding or in a criminal prosecution and that specifies, imposes,  
 3 enforces, or otherwise involves monetary damages, an award, a  
 4 payment, a fine, or other monetary penalty or forfeiture, the state  
 5 or political subdivision shall determine and certify the amount of  
 6 the damages, award, payment, fine, penalty, or forfeiture as  
 7 follows:

8 (1) In civil cases, the person in the position of judgment  
 9 creditor may stipulate with the person in the position of  
 10 judgment debtor to receive and to pay, respectively, the  
 11 amount of any award (including any award of attorney's fees)  
 12 in either legal tender of the United States or electronic gold  
 13 currency. The stipulation shall be specifically enforced by the  
 14 state or political subdivision as a contract (the obligation of  
 15 which shall be protected by Article I, Section 10, Clause 1 of  
 16 the Constitution of the United States against any impairment).  
 17 In the absence of such a stipulation, the state or political  
 18 subdivision shall require the person in the position of  
 19 judgment debtor to pay to the person in the position of  
 20 judgment creditor by using the medium of exchange chosen  
 21 by the judgment creditor.

22 (2) In any case in which the state or political subdivision is  
 23 entitled to receive a payment for the state's or political  
 24 subdivision's own account, the person required to pay the  
 25 damages, award, payment, fine, penalty, or forfeiture shall  
 26 pay that amount in electronic gold currency.

27 Sec. 8. The following apply with respect to any contract,  
 28 agreement, or other arrangement for the payment after December  
 29 31, 2009, of wages, salaries, fees, or other monetary compensation  
 30 to any person that has provided or will provide goods or services  
 31 to, or otherwise be entitled to payment from, the state or a political  
 32 subdivision, either as an officer, an employee, an agent, or a  
 33 contractor or in any other similar capacity:

34 (1) The state or political subdivision shall determine and  
 35 certify the amount of the monetary compensation in both legal  
 36 tender of the United States and electronic gold currency.

37 (2) Except as otherwise required by law, if the state or  
 38 political subdivision is required to withhold from the  
 39 compensation and pay over to the United States or to the state  
 40 or a political subdivision any percentage or portion of the  
 41 compensation by way of taxes or other public charges, those  
 42 amounts shall be paid over in legal tender of the United States

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1 unless the person entitled to the payment has made an election  
2 under subdivision (3).

3 (3) The person entitled to receive the compensation has the  
4 option to receive in either legal tender of the United States or  
5 electronic gold currency the net amount remaining after any  
6 deductions made under subdivision (2), and the state or  
7 political subdivision shall specifically enforce the person's  
8 choice as a contract (the obligation of which shall be protected  
9 by Article I, Section 10, Clause 1 of the Constitution of the  
10 United States against any impairment).

11 (4) In the case of compensation to be paid on a regular  
12 schedule (such as salaries, wages, or parts of contractual  
13 prices) or on any other continuous, routine, or frequent basis,  
14 a person entitled to the compensation may choose to receive  
15 either legal tender of the United States or a designated  
16 electronic gold currency for all future payments until that  
17 person changes the person's choice.

18 Sec. 9. (a) With respect to any transaction under sections 3  
19 through 8 of this chapter, each person engaging in the transaction  
20 shall notify the state or political subdivision in a manner  
21 considered timely according to rules or guidelines adopted by the  
22 treasurer of state or the fiscal officer of the political subdivision of  
23 the person's election to receive or to pay a designated electronic  
24 gold currency instead of legal tender of the United States. The  
25 election must be made by use of forms or other means designated  
26 by the treasurer of state or the fiscal officer of the political  
27 subdivision.

28 (b) If a person does not make a timely notification as required  
29 by subsection (a), the medium of exchange for the transaction is  
30 legal tender of the United States.

31 Sec. 10. Except with respect to loans, bonds, or notes the  
32 payment of which is designated in gold under section 4 of this  
33 chapter, a person may not pay or promise to pay out on behalf of  
34 the state or a political subdivision any gold in excess of the gold  
35 held in the state's or the political subdivision's accounts with  
36 electronic gold currency payment providers at the time of  
37 payment.

38 Sec. 11. (a) If there is not sufficient gold in the state's or a  
39 political subdivision's accounts with electronic gold currency  
40 payment providers for the state or the political subdivision to make  
41 any payment allowable under this article, the payment (upon  
42 demand for the payment) shall be made in legal tender of the

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1 United States. A payment requested by any person to be made in  
2 gold, where the gold necessary for full payment is unavailable at  
3 the time of the demand, shall not be deferred or rescheduled to a  
4 future date at which sufficient gold may be available.

5 (b) If there is not sufficient gold in the state's or political  
6 subdivision's accounts with electronic gold currency payment  
7 providers for the state or the political subdivision to make any  
8 payment allowable under this article to all persons demanding  
9 payment in gold, but where there is sufficient gold to pay one (1) or  
10 more persons demanding payment in gold, payees shall be  
11 preferred on the following bases:

12 (1) Persons that have paid gold to the state or the political  
13 subdivision during the current fiscal year shall be paid in  
14 preference to persons who have not made such payments.

15 (2) Among persons who have paid gold to the state or the  
16 political subdivision during the current fiscal year, those who  
17 have paid larger amounts of gold shall be paid in preference  
18 to those who have paid smaller amounts.

19 (3) Among persons who have paid gold to the state or the  
20 political subdivision during the current fiscal year in equal  
21 amounts, preference shall be according to the person who first  
22 paid the gold.

23 (c) Each fiscal year the treasurer of state and each fiscal officer  
24 shall maintain lists of all persons who make payments in electronic  
25 gold currency and the amount of payments to determine allotting  
26 preferences under subsection (b).

27 (d) With respect to loans, bonds, or notes for which the payment  
28 is designated in gold under section 4 of this chapter, in the absence  
29 of sufficient gold held in the state's or political subdivision's  
30 accounts with electronic gold currency payment providers to pay  
31 the indebtedness as it accrues, the person responsible for payment  
32 of loans, bonds, or notes may convert any other monetary assets  
33 available to the person into the required amounts of electronic gold  
34 currency.

35 (e) Notwithstanding any other law, the person responsible for  
36 payment of any public indebtedness of the state or a political  
37 subdivision may do the following:

38 (1) Convert any other monetary assets available to the person  
39 into electronic gold currency for the following purposes:

40 (A) To be held for reserve or investment purposes.

41 (B) To meet any demands from persons for payment in  
42 gold under this article.

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(2) Convert electronic gold currency into legal tender of the United States, to be used for any lawful purpose, but at all times maintaining the ability immediately to reacquire the amounts of electronic gold currency to meet demands for payments in gold under this article.

Sec. 12. The following apply with respect to an inaccurate determination of exchange rates between legal tender of the United States and a designated electronic gold currency that affects any right, power, privilege, or immunity secured under this article:

(1) A person aggrieved by the inaccurate determination may bring a civil action in a circuit or superior court against each person responsible for the inaccurate determination, in both the official and individual capacities of the person allegedly responsible for the inaccurate determination, for any appropriate forms of relief, including monetary damages. In such a civil action the person allegedly responsible for the inaccurate determination is not immune from liability because of the person's position as an officer or employee of the state or a political subdivision.

(2) In any civil or criminal case in which a person aggrieved by an inaccurate determination is made a defendant, the inaccurate determination may be raised, where relevant, by way of defense, counterclaim, setoff, or other pleading.

(3) If the issue of an inaccurate determination is dismissed with prejudice, decided by summary judgment, heard and decided on the merits, or decided on appeal, reasonable attorney's fees shall be awarded to the prevailing party for litigation of that question.

Sec. 13. A person who knowingly or intentionally:

(1) makes an inaccurate determination described in section 12 of this chapter; or

(2) advises or participates in, aids and abets, or attempts to conceal by the withholding, destruction, or falsification of records, by false statement (whether made under penalty of perjury or not), or by any other device, artifice, or means, an inaccurate determination described in section 12 of this chapter;

**commits a Class B misdemeanor.**

SECTION 3. IC 4-13-2-14.8, AS ADDED BY P.L.144-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14.8. (a) Notwithstanding any other law, rule, or custom, but subject to subsections (c) and (d) **and IC 4-8.3**, a person

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1 who has a contract with the state or submits invoices to the state for  
 2 payment shall authorize in writing the direct deposit by electronic  
 3 funds transfer of all payments by the state to the person. The person's  
 4 written authorization must designate a financial institution and an  
 5 account number to which all payments are to be credited.

6 (b) After obtaining the authorization required by subsection (a), the  
 7 auditor of state shall deposit a payment to the person in the financial  
 8 institution and account designated by the person each time a payment  
 9 is made to the person.

10 (c) A person who does not wish to have payments to the person  
 11 deposited by electronic funds transfer may request the auditor of state  
 12 to grant a waiver of the requirement of subsection (a). The person must:

13 (1) state the reason for requesting the waiver; and

14 (2) sign and verify the waiver form.

15 (d) The auditor of state may grant a person's request for a waiver for  
 16 any of the following reasons:

17 (1) The person does not currently have a savings or checking  
 18 account and is unable to establish such an account within the  
 19 geographic area of the person's primary business location without  
 20 payment of a service fee. The person must submit with the waiver  
 21 request a written statement by the person's financial institution of  
 22 the person's inability to establish an account without the payment  
 23 of a fee.

24 (2) The person's primary business location is too remote to have  
 25 access to a financial institution where a direct deposit can be  
 26 made.

27 (3) The person's financial institution is unable to accept an  
 28 electronic deposit or withdrawal. The person must submit with the  
 29 waiver request a written statement by the person's financial  
 30 institution that the financial institution is unable to accept an  
 31 electronic deposit or withdrawal.

32 (4) The auditor of state determines that the facts of the particular  
 33 case warrant a waiver of the requirement of subsection (a).

34 The auditor of state shall establish a waiver form consistent with this  
 35 subsection.

36 (e) A contract entered into by the state must contain a provision  
 37 under which the person contracting with the state specifically  
 38 authorizes the auditor of state to make all payments to the person by  
 39 direct deposit by electronic funds transfer, subject to the waiver  
 40 provisions of subsection (d).

41 (f) Notwithstanding any other law, rule, or custom, a payment to a  
 42 person by the state under this section discharges only the state's

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1 obligation to that person to the extent of the amount of the payment  
 2 tendered, and does not constitute a settlement, reduction, release, or  
 3 compromise of the state's obligation to the person.

4 SECTION 4. IC 6-7-0.5 IS ADDED TO THE INDIANA CODE AS  
 5 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2009]:

7 **Chapter 0.5. Payments Under This Article**

8 **Sec. 1. After December 31, 2009, all payments under this article**  
 9 **are subject to IC 4-8.3-5-3.**

10 SECTION 5. IC 36-1-8-1 IS AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** This chapter applies to all  
 12 political subdivisions.

13 **(b) Notwithstanding any other provision, after December 31,**  
 14 **2009, a political subdivision shall comply with IC 4-8.3.**

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